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MICROSOFT CORPORATION

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OCT 28 2002

UNITED STATES DISTRICT COURT

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

INTERTRUST TECHNOLOGIES
CORPORATION, a Delaware corporation,

Plaintiff,

v.

MICROSOFT CORPORATION, a
Washington corporation,

Defendant.

Case No. C 01-1640 SBA (MEJ)

**[PROPOSED] ORDER GRANTING,
IN PART, MICROSOFT'S MOTION
FOR A PARTIAL STAY**

Defendant's Counsel are directed to serve this
order upon all other parties in this actions.

AND RELATED CROSS-ACTION.

1 Having considered Defendant Microsoft's Motion for Partial Stay, the supporting
2 and opposing papers, the pleadings and papers on file with the Court, the evidence presented by
3 counsel, oral argument by counsel, and good cause appearing therefor,

4 IT IS HEREBY ORDERED that Microsoft's motion is GRANTED, IN PART, AS
5 FOLLOWS:

6 The parties have selected the following 12 claims for limited Markman claim
7 construction and indefiniteness proceedings:

- 8 ▪ U.S. Patent No. 6,185,683 – claim 2
- 9 ▪ U.S. Patent No. 6,253,193 – claims 1, 11, 15, 19
- 10 ▪ U.S. Patent No. 5,920,861 – claim 58
- 11 ▪ U.S. Patent No. 5,892,900 – claim 155
- 12 ▪ U.S. Patent No. 5,982,891 – claim 1
- 13 ▪ U.S. Patent No. 5,917,912 – claims 8, 35
- 14 ▪ U.S. Patent No. 6,157,721 – claims 1, 34

15 The Court shall schedule the hearing on Microsoft's anticipated motion for partial
16 summary judgment of indefiniteness (limited to all or some of these 12 claims) to coincide with
17 the Markman hearing on these 12 claims.

18 All proceedings (including all discovery) unrelated to the claim construction and
19 alleged indefiniteness of these 12 claims shall be stayed pending the Court's ruling on these
20 issues.

21 The relatedness of discovery requests to the limited Markman and indefiniteness
22 proceedings shall be construed broadly and both parties are ordered to make every effort to permit
23 discovery, otherwise relevant and discoverable under the Civil Rules, that is colorably related to
24 or likely to assist in developing issues affecting the claim construction and/or indefiniteness of the
25 12 claims selected by the parties. For example, at the hearing counsel represented that they
26 would not object to discovery directed to the use, by either party, of claim terms selected to be
27 construed at the limited Markman hearing, as well as technical documents mentioning those claim
28 terms. However, the failure to object to such discovery shall not be construed as an admission of

1 the admissibility or relevance of that material, nor shall it be considered a waiver of the right to
2 contest its admissibility for any purpose.

3 This partial stay is granted pursuant to the Court's broad powers of case
4 management, including the power to limit discovery to relevant subject matter and to adjust
5 discovery as appropriate to each phase of litigation as set forth by the Federal Circuit in *Vivid*
6 *Technologies, Inc. v. American Science & Engineering, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999),
7 and pursuant to Federal Rules of Civil Procedure 16(b), (c); 26(b); 42(b).

8 Dated: 11-1, 2002

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10 The Honorable Sandra Brown Armstrong
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DECLARATION OF SERVICE VIA ELECTRONIC MAIL AND
U.S. MAIL - CASE NO. C 01-1640 SBA (MEJ)